IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY THIRD DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 17142 of 2004

Between:

M/s.Chotabhai Jethabai Patel & Company, Kisannagar Village,
Balkonda Mandal, Nizamabad District rep., by its Manager,
Mr.Dineshbhai

..... PETITIONER

AND

1 The Commercial Tax Officer-III, Nizamabad.
2 The Deputy Commissioner (CT), Nizamabad Division,

Nizamabad.
3 The Additional Commissioner (CT) Legal (FAC) Andhra Pradesh,

Nampally, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of certiorari or any other appropriate writ or order or direction quashing the order of the 3rd respondent in CCT's Ref.LIII(1)1310/2004 dated 30-8-2004 and restrain the 1st respondent from taking any coercive steps for collection of balance disputed tax of Rs.1,36,242/- for the assessment year 2000-01 (APGST) pending disposal of the appeal filed before the Sales Tax Appellate Tribunal.

Counsel for the Petitioner : MR.S.DWARAKANATH

Counsel for the Respondents : GP FOR COMMERCIAL TAXES

The Court at the admission stage made the following O R D E R:

(Per the Hon'ble Sri Justice Bilal Nazki)

Heard learned counsel for the parties. At this stage, with the consent of the parties, the writ petition is being disposed of.

The petitioner had filed an application for stay, before the Additional Commissioner of Commercial Taxes (Legal), Hyderabad, pending appeal before the Sales Tax Appellate Tribunal. The Additional Commissioner rejected the application and the Writ Petition is filed.

We have gone through the record and heard learned counsel for the parties. We feel that the interest of justice would have been met if stay was granted pending appeal, subject to deposit of half of the liability. It is stated at the bar that the petitioner had already deposited an amount of Rs.45,414/- being 25% of the disputed tax. Therefore, we set aside the order of the Additional Commissioner of Commercial Taxes and direct the petitioner to deposit an amount of Rs.45,000/- (Rupees Forty Five Thousand only) within a period of four weeks, subject to outcome of the appeal. For four weeks, there shall be an unconditional stay and the stay shall continue till disposal of the appeal, provided the amount is deposited within four weeks. However, if the petitioner fails to deposit the amount, the stay shall stand vacated automatically.

The writ petition is disposed of accordingly. No costs.

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(BILAL NAZKI, J)

23rd September, 2004.

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(S.ANANDA REDDY, J)

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To

1 The Commercial Tax Officer-III, Nizamabad.
2 The Deputy Commissioner (CT), Nizamabad Division,

Nizamabad.
3 The Additional Commissioner (CT) Legal (FAC) Andhra Pradesh,

Nampally, Hyderabad.

4 Two C.Cs. to the Government Pleader for Commercial Taxes,

High Court buildings, Hyderabad (O.U.T).

5 Two C.D copies